

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

<b>LATOSHA JIM,</b>	)	
	Plaintiff,	)
vs-	)	
	)	
<b>THE CITY OF SHAWNEE, OKLAHOMA,</b>	)	
A Municipal Corporation,	)	
	)	
<b>THE BOARD OF COUNTY COMMISSIONERS,</b>	)	
of POTTAWATOMIE County, State of Oklahoma	)	
	)	
<b>POTTAWATOMIE COUNTY PUBLIC SAFETY</b>	)	
<b>CENTER TRUST</b>	)	
	)	
<b>MIKE BOOTH</b>	)	
Sheriff of POTTAWATOMIE County, Oklahoma,	)	
	)	
<b>KEVIN NICHOLS,</b> Shawnee Police Officer,	)	
<b>DAVID CARPENTER,</b> Shawnee Police Officer,	)	
<b>JOHN DOE(s),</b> Shawnee Police Officers,	)	
<b>JOHN ROE(s),</b> Sheriff's Deputies,	)	
<b>JOHN SMITH(s),</b> Employees of Pottawatomie	)	
County, Public Safety Center Trust,	)	
	Defendants,	)
		No. CIV-18-1168-PRW

**AMENDED COMPLAINT**

Comes now the Plaintiff, and for her causes of action against the Defendants,  
and each of them, alleges and states as follows:

**FIRST CAUSE OF ACTION**

1. Plaintiff, **LATOSHA JIM** is a citizen of the United States of America and at  
all times relevant hereto resided in the City of SHAWNEE, POTTAWATOMIE County,  
State of Oklahoma

2. That **The CITY OF SHAWNEE, OKLAHOMA** is a Municipal Corporation in POTTAWATOMIE County, Oklahoma.

3. The Board of County Commissioners of POTTAWATOMIE COUNTY, Oklahoma, is the Governing body of POTTAWATOMIE COUNTY, OKLAHOMA, and is made a defendant herein as a necessary party to any action concerning the claims herein, against its employees, the Sheriff and his Deputies, pursuant to *Title 19, O.S., §4*.

4. The Defendant, **MIKE BOOTH**, Sheriff of POTTAWATOMIE County, is a resident of POTTAWATOMIE COUNTY, State of Oklahoma, and was at all times pertinent hereto the duly elected, qualified and acting Sheriff of POTTAWATOMIE COUNTY, State of Oklahoma. and in charge of **POTTAWATOMIE COUNTY PUBLIC SAFETY CENTER TRUST**, where he operates the a jail and detention center at 14209 Highway 177, Shawnee, OK 74804.

4. That the Defendant, **POTTAWATOMIE COUNTY PUBLIC SAFETY CENTER TRUST**, operates a jail and dentention center at 14209 Highway 177, Shawnee, OK 74804.

5. That the Defendants, **KEVIN NICHOLS** and **DAVID CARPENTER**, and **JOHN DOE(s)**, were at all times pertinent hereto, residents of POTTAWATOMIE County, State of Oklahoma, and were duly appointed and acting law enforcement officers of THE CITY OF SHAWNEE, OKLAHOMA.

6. That the Defendants, **JOHN ROE(s)**, were at all times pertinent hereto, a resident of POTTAWATOMIE County, State of Oklahoma, and were a duly appointed and

acting Deputies Sheriff of POTTAWATOMIE COUNTY, Oklahoma.

7. That the Defendant, **JOHN SMITH(s)**, were at all times pertinent hereto, a resident of POTTAWATOMIE County, State of Oklahoma, and were the employee of **POTTAWATOMIE COUNTY PUBLIC SAFETY CENTER TRUST**, acting within the course and scope of his employment.

8. At about 7:40 A.M. on Monday morning, May 14, 2018, Plaintiff was delivering her 4 year old minor child to Shawnee Early Childhood Development Center 1831 Airport Drive, Shawnee, Oklahoma, for regularly scheduled classes. The center was not yet open so Plaintiff was sitting with her child and her cousin on a bench outside the center, waiting for the door to open.

9. That On May 14, 2018, at approximately 7:40 A.M., the defendants, **KEVIN NICHOLS** and **DAVID CARPENTER** arrested the Plaintiff at Shawnee Early Childhood Development Center 1831 Airport Drive, Shawnee, OK, SHAWNEE, POTTAWATOMIE County, Oklahoma, without lawful warrant or probable cause to make such arrest

10. The defendants, **KEVIN NICHOLS** and **DAVID CARPENTER**, two Shawnee Police Officers then approached the Plaintiff, her cousin and minor child, and began to ask for identification. The officers then ran a radio check on the Plaintiff and her cousin. They discovered that there was an outstanding warrant for unpaid fines against this Plaintiff. Thereupon the officers forcibly grabbed and yanked Plaintiff; threw her against the police car, stomach first. They then handcuffed her with her hands behind her back. and threw her into the police car. The officers used excessive force in arresting the Plaintiff.

Her minor child was watching and began to cry and still cries when she sees a policeman.

11. Plaintiff was 4 ½ and 5 months pregnant at the time, and told the policemen of her condition, and asked them to be careful. They ignored her, but seemed to become rougher and less considerate.

12. Sometime during the ride to the place where the officers were taking her, Plaintiff began to feel severe abdominal pain and the discharge of blood and informed the police of what was happening; She requested she be taken to the hospital. They ignored her, but instead took her to the Pottawatomie County Public Safety Center Trust, a/k/a Pottawatomie County Detention Center

13. When she reached the Pottawatomie County Public Safety Center Trust, a/k/a Pottawatomie County Detention Center, she told the booking officer of what had happened, of her pain and discharge of blood..

14. When she was finally taken to the physician / nurse on duty in the medical facility at the Pottawatomie County Public Safety Center Trust, a/k/a Pottawatomie County Detention Center, the physician / nurse told her that she did not need to worry about the discharge of blood - but did nothing else.

15. On May 15, 2018, Plaintiff was taken to SAINT ANTHONY SHAWNEE HOSPITAL, Shawnee, Oklahoma where she was diagnosed as having had a miscarriage, and lost her baby.

16. The acts of **KEVIN NICHOLS** and **DAVID CARPENTER**, constituted Assault and battery, negligence in the performance of their duties, excessive force in making

an arrest.

17. The acts of **JOHN ROE(s)** constituted failure to provide medical care to persons in their custody, endangering the health of persons in their custody, negligence in the performing their duties.

18. The acts of **JOHN SMITH(s)** failure to provide medical care to persons in their custody, endangering the health of persons in their custody, negligence in the performing their duties

19. That **LATOSHA JIM**, timely filed with the Clerk of the Board of County Commissioners of POTTAWATOMIE County, State of Oklahoma, and with **MIKE BOOTH**, Sheriff of POTTAWATOMIE County, a Tort Claim pursuant to the provisions of the *Governmental Tort Claims Act of the State of Oklahoma, 51 O.S., Sec. 151, et seq*, claiming damages for her injuries arising from the incident alleged herein. That more than 90 days have passed since the filing of said Claim, and that the said defendants have neither allowed nor disallowed said claim. That said Claims are deemed to have been disallowed pursuant to the provisions of the *Governmental Tort Claims Act of the State of Oklahoma*.

20. That **LATOSHA JIM**, timely filed with the City Clerk of THE CITY OF SHAWNEE, OKLAHOMA, a Tort Claim pursuant to the provisions of the *Governmental Tort Claims Act of the State of Oklahoma, 51 O.S., Sec. 151, et seq*, claiming damages for her injuries arising from the incident alleged herein. That more than 90 days have passed since the filing of said Claim, and that the City has neither allowed nor disallowed said claim. That said Claim is deemed to have been disallowed pursuant to the provisions of the

*Governmental Tort Claims Act of the State of Oklahoma.*

21. That **LATOSHA JIM** timely filed with the Clerk of **POTTAWATOMIE COUNTY PUBLIC SAFETY CENTER TRUST**, a Tort Claim pursuant to the provisions of the *Governmental Tort Claims Act of the State of Oklahoma, 51 O.S., Sec. 151, et seq*, claiming damages for her injuries arising from the incident alleged herein. That more than 90 days have passed since the filing of said Claim, and that the City has neither allowed nor disallowed said claim. That said Claim is deemed to have been disallowed pursuant to the provisions of the *Governmental Tort Claims Act of the State of Oklahoma*

22. That pursuant to The *Governmental Tort Claims Act of the State of Oklahoma, 51 O.S., §151, et seq*, The **CITY OF SHAWNEE, OKLAHOMA**, is liable to the Plaintiff for damages suffered by the acts of its employees *while acting within the course and scope of their employment*

23. That pursuant to The *Governmental Tort Claims Act of the State of Oklahoma, 51 O.S., §151, et seq*, **POTTAWATOMIE COUNTY, OKLAHOMA** is liable to the the Plaintiff for damages suffered by the acts of its employees *while acting within the course and scope of their employment*.

24.. That the said **MIKE BOOTH**, Sheriff of POTTAWATOMIE County, is liable to the **LATOSHA JIM** for the torts of his deputies committed on or about May 14, 2018, as alleged herein, committed while acting *within the scope of their employment*.

25. That the said **POTTAWATOMIE COUNTY PUBLIC SAFETY CENTER TRUST**, is liable to the plaintiff, **LATOSHA JIM**, for the torts of its employees committed

on or about May 14, 2018, as alleged herein, committed while acting *within the scope of their employment*.

26. That by reason of the acts of the deputies employee of **MIKE BOOTH**, Sheriff of POTTAWATOMIE County, Oklahoma, Plaintiff has been damaged in a sum in excess of \$10,000.00.

27. That by reason of the acts of the police officers of **THE CITY OF SHAWNEE, OKLAHOMA**, Plaintiff has been damaged in a sum in excess of \$10,000.00.

28. That by reason of the acts of the employees of **POTTAWATOMIE COUNTY, OKLAHOMA**, Plaintiff has been damaged in a sum in excess of \$10,000.00.

29. That by reason of the acts of the employee of **POTTAWATOMIE COUNTY PUBLIC SAFETY CENTER TRUST**, Plaintiff has been damaged in a sum in excess of \$10,000.00.

WHEREFORE, premises considered, Plaintiff prays she be granted judgment against **THE BOARD OF COUNTY COMMISSIONERS of POTTAWATOMIE COUNTY, OKLAHOMA; MIKE BOOTH**, Sheriff of POTTAWATOMIE County, State of Oklahoma; **THE CITY OF SHAWNEE, OKLAHOMA**, and **POTTAWATOMIE COUNTY PUBLIC SAFETY CENTER TRUST**, for the wrongful acts of their respective employees, employees committed while they were acting *within the scope of their employment*, and such other and further relief as to the Court seems just and proper.

## **SECOND CAUSE OF ACTION**

Come now the Plaintiff above named and for her Second Cause of Action against

**MIKE BOOTH**, Sheriff of POTTAWATOMIE COUNTY, Oklahoma, adopts and incorporates herein each and every allegation set forth in her First Cause of Action, and further shows to the Court as follows:

30. That in addition to any causes of action the Plaintiff may have pursuant to the provisions of the *Governmental Tort Claims Act, Title 51, O.S. §151*, et seq., the defendant, **MIKE BOOTH**, as Sheriff of POTTAWATOMIE COUNTY, Oklahoma has a common law and statutory liability, pursuant to *Title 19 O.S. §547*, to the Plaintiff, **LATOSHA JIM**, for the torts of his deputies committed on or about May 14, 2018, as alleged herein, committed while acting *within the scope of their employment*. for any negligence or misconduct of his jailer and Deputies.

31. That by reason of the acts of the deputies of **MIKE BOOTH**, Sheriff of POTTAWATOMIE County, Oklahoma, Plaintiff has been damaged in a sum in excess of \$10,000.00.

WHEREFORE, premises considered, Plaintiff prays she be granted judgment against **MIKE BOOTH**, Sheriff of POTTAWATOMIE County, State of Oklahoma for the wrongful acts of his deputies as alleged herein, and for such other and further relief as to the Court seems just and proper.

### **THIRD CAUSE OF ACTION**

Come now the Plaintiff above named and for her Third Cause of Action adopt and incorporate herein each and every allegation set forth in her First and Second Causes of Action, and further show the Court as follow:



22. The Defendants, **JOHN SMITH(s)**, **JOHN DOE(s)**, **JOHN ROE(s)**, and **JOHN SMITH(s)**, were at all times material hereto acting in concert with, and jointly with each other to effect a common purpose with said police defendants.

23. That the actions of the Defendants, **KEVIN NICHOLS** and **DAVID CARPENTER**, **JOHN DOE(s)**, **JOHN ROE(s)**, and **JOHN SMITH(s)**, as alleged herein, were done under color of law, and in violation of the rights of this Plaintiff as guaranteed by the Constitution of the United States of America, more particularly under the provisions of the Fourth Amendment to the Constitution of the United States, and under Federal law, particularly the *Civil Rights Act, Title 42 of the United States Code, §1983*.

24. That this Court has concurrent jurisdiction to decide actions brought pursuant to *Title 42, United States Code, §1983*.

25. Each and all of the acts of the defendants alleged herein were done by the Defendants, **KEVIN NICHOLS** and **DAVID CARPENTER**, **JOHN DOE(s)**, **JOHN ROE(s)**, and **JOHN SMITH(s)**, under the color and pretense of the statutes, ordinances, regulations, customs and usages, policies and procedures of The State of Oklahoma and, THE CITY OF SHAWNEE, OKLAHOMA, and of the Sheriff of POTTAWATOMIE County, Oklahoma.

26. The conduct of the Defendants, **KEVIN NICHOLS** and **DAVID CARPENTER**, **JOHN DOE(s)**, **JOHN ROE(s)**, and **JOHN SMITH(s)**, and each of them, deprived the Plaintiff of the following rights, privileges and immunities secured to them by the Constitution of the United States of America:

- a. The right to be secure in their persons and effects against unreasonable searches and seizures under the Fourth and Fourteenth Amendments to the Constitution of the United States.
- b. The right of the Plaintiff not to be deprived of life, liberty or property without due process of law, and the right of equal protection of the laws, secured by the Fourteenth Amendment to the Constitution of the United States.

27. That by reason of the acts and omissions of the Defendants, **KEVIN NICHOLS** and **DAVID CARPENTER**, JOHN DOE(s), JOHN ROE(s), and JOHN SMITH(s), in violation of the Constitutional Rights of the Plaintiff, this Plaintiff has suffered damages in a sum in excess of \$10,000.00.

WHEREFORE, premises considered, Plaintiff prays she be granted judgment against the defendants, **KEVIN NICHOLS** and **DAVID CARPENTER** JOHN DOE(s), JOHN ROE(s), and JOHN SMITH(s), for their acts in deprivation of the Civil Rights of the Plaintiff as alleged herein, and such other and further relief as to the Court seems just and proper, including her costs and reasonable attorney fees.

#### **FOURTH CAUSE OF ACTION**

Come now the Plaintiff above named and for her Fourth Cause of Action adopt and incorporate herein each and every allegation set forth in her First, Second and Third Causes of Action, and further show to the Court as follows:

28. That the defendants, **KEVIN NICHOLS** and **DAVID CARPENTER**, JOHN DOE(s), JOHN ROE(s), and JOHN SMITH(s), are individually liable for their torts committed outside their scope of employment.

29. The acts, conduct and behavior of the defendants, **KEVIN NICHOLS** and **DAVID CARPENTER JOHN DOE(s), JOHN ROE(s), and JOHN SMITH(s)**, were so grossly negligent, performed knowingly, intentionally, and with such a wilful disregard of the rights of the Plaintiff as to constitute fraud and oppression, by reason of which the Plaintiff is entitled to punitive damages.

WHEREFORE, premises considered, Plaintiff prays she have Judgment against the Defendants and each of them as alleged herein, and for such other and further relief as to the Court seems just and proper, including reasonable attorney fees and costs

s/Joseph E. McKimmey  
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Attorney Lien Claimed

**CERTIFICATE OF SERVICE**

I hereby certify that on June 27, 2019 I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Wellon Poe wbp@czwlaw.com  
Taylor M. Tyler tmt@czwlaw.com  
Robert S. Lafferrandre rlafferrandre@piercecouch.com  
Carson C. Smith csmith@piercecouch.com  
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s/Joseph.McKimme  
Joseph E. McKimney, OBA #6029